

CALIFORNIA COASTAL COMMISSION

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**F5c**

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-18-0664

Applicant: Imran and Aniq Jaswal

Agent: Phil Weatherly

Location: 723 Seagirt Court, Mission Beach, San Diego, San Diego County (APN No. 423-572-27)

Project Description: Demolition of an existing one-story, 710 sq. ft. single family residence and construction of a three-story, 29 ft. 6 in. high, 1,372 sq. ft. single-family residence with a 365 sq. ft. attached garage on a 1,250 sq. ft. lot

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The primary issues raised by this project relate to the protection of public views and public access. While the proposed project will not block any public views to the beach along the shoreline, visual resources could be impacted if the required view corridors were blocked by landscaping as it grows in the future. In addition, the presence of construction workers and equipment in such a densely populated, popular beach area could impact public access by occupying public parking spaces for storage or blocking public right-of-ways to and along the beach, especially during the summer months when beach use is at its peak. Finally, there is a risk building in an area that is likely to be subject to coastal hazards such as flooding and wave uprush as sea level rise increases.

To address these potential adverse impacts, Commission staff is recommending several special conditions. **Special Condition 1** requires submittal of final site construction and landscaping plans that limit landscaping in the public view corridors to a height of three feet. **Special Condition 2** prohibits development activity during the busy summer months between Memorial Day Weekend and Labor Day in order to remove the potential of development activity impeding coastal access. **Special Condition 3** requires the property owner to submit a written agreement that acknowledges and accepts the construction timing limitations. **Special Condition 4** requires the applicant to acknowledge the development is proposed in a site subject to coastal hazards and assume the risk of development. **Special Condition 5** requires the applicant to record a deed restriction against the property that imposes the conditions of the permit for the purpose of providing notice to future property owners. Therefore, as conditioned, the project will be consistent with the Chapter 3 policies of the Coastal Act, and no impacts to coastal resources are anticipated.

TABLE OF CONTENTS

I. MOTION	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS	4
IV. FINDINGS AND DECLARATIONS.....	7
A. PROJECT DESCRIPTION	7
B. COMMUNITY CHARACTER/VISUAL QUALITY.....	8
C. PUBLIC ACCESS/PARKING	8
D. COASTAL HAZARDS	8
E. LOCAL COASTAL PLANNING	8
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT	9

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial Photo](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Site Photos](#)

I. MOTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Submittal of Final Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director a full-size set of the following final plans:

- (a) Final Project Plans that substantially conform with the plans submitted to the Commission, titled “Jaswal’s Custom Home” received at the San Diego Commission Office on 7/2/2018.
- (b) Final Landscape/Yard Area Plans that substantially conform with the plans submitted to the Commission, titled “Jaswal’s Custom Home” received at the San Diego Commission Office on 7/2/2018, and shall include the following:
 - i. A view corridor, 10 feet wide, shall be preserved in the north yard area adjacent to Seagirt Court. All proposed landscaping in the north yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve the views from Mission Boulevard toward the ocean.
 - ii. All landscaping shall be drought tolerant, native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not to exceed three feet at maturity. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.
 - iii. Any fencing and walls, including glass walls, trellis walls, and retaining walls, in the northern yard setback areas along Seagirt Court shall not exceed a height of three feet above the existing grade or proposed grade, whichever is lower.
 - iv. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified resource specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee, or successor in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Timing of Development.** No construction shall take place for the project from Memorial Day Weekend to Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (e.g., no street closures or use of public parking as staging areas).
3. **Written Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the property owner shall submit a written agreement, in a form and content acceptable to the Executive Director, that acknowledges and accepts the timing of development approved pursuant to Special Condition No. 2, and provide a weekly construction schedule to confirm that no construction will occur from Memorial Day Weekend to Labor Day.
4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea-level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. **Deed Restriction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property subject to the terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project is the demolition of an existing one-story, 710 sq. ft. single-family residence and construction of a 1,372 sq. ft., 29.6-ft. high, three-story single-family residence with a 365 sq. ft. attached garage on a 1,250 sq. ft. lot at 723 Seagirt Court in the Mission Beach community of the City of San Diego ([Exhibit 1](#)). The subject site is within an existing residential area zoned R-N and the proposed development is similar in size and scale to the surrounding development.

The project site is located on the south side of Seagirt Court, facing north ([Exhibit 2](#)). In the Mission Beach neighborhood, the public right-of-way of the various courts and places, which are generally east-west running streets, as well as the yard setbacks of the adjacent properties comprise the community's public view corridors. Additionally, the public boardwalk – Ocean Front Walk – which runs north-south along the beach, serves not only as a highly popular public access way, but also serves as a public view corridor along the shoreline. Because the project is located between the first public road and the sea, there is the potential for the project to impact views to the shoreline from Mission Boulevard.

The Commission typically reviews projects to ensure that any new development does not encroach into the yard setback areas, which could impede public views to and along the ocean. Such encroachments could include structures and/or landscaping. As proposed, no structures are located in the view corridors ([Exhibit 3](#)). There is potential for landscaping in the northern yard area to impede views west towards the ocean. To ensure that public views west towards the ocean are protected, **Special Condition 1** requires the applicant to submit final plans indicating that no structures will be located in the view corridor. In addition, Special Condition 1 requires the applicant to submit a final landscaping plan requiring all landscape and hardscape in the northern yard area to consist of low-lying materials not exceeding three feet in height.

Because the subject site is constrained and has limited access and space to accommodate construction activities and staging, demolition and construction activity could impede public access by occupying public parking spaces or blocking public right-of-ways with materials or debris. The applicant originally proposed to conduct interior work during the summer; however, even interior work has the potential to impact public if parking, materials, and deliveries are not contained onsite. As such, after coordinating with Commission staff, the applicant agreed to conduct work outside of the summer season only. If the project is stalled for unforeseen reasons and is not completed by Memorial Day weekend, the applicant would be able to request an amendment to the subject permit that would allow interior work during the summer if the applicant is able to provide documentation that all work could be contained on the project site. Therefore, **Special Condition 2** prohibits any development during the peak summer months when public access could be impacted and **Special Condition 3** requires the property owners to submit a written agreement indicating that they acknowledge and accept the construction

timing limitations and will submit a weekly construction schedule to confirm that work will not occur during summer.

Finally, the project site is located in the Mission Beach community, a low-lying area on a peninsula situated between the Pacific Ocean to the west and Mission Bay to the east, which currently experiences periodic flooding that will likely increase with sea level rise. Therefore, **Special Condition No. 4** requires the applicant to assume all risks of developing in a location that may be subject to coastal hazards, including flooding, wave uprush, and storms. **Special Condition 5** requires recordation of the permit conditions against the property to ensure future property owners are aware of the above mentioned protections and conditions.

Since the existing structure was built in 1942, it is subject to the City of San Diego's review for historical significance. Section 143.0212 of the City's Land Development Code provides that the City shall determine the need for a site-specific survey for the purposes of obtaining a construction permit or development permit for development for any parcel containing a structure that is 45 or more years old. In this particular case, the structure is approximately 76 years old, but the City's Development Services did not find the structure to be eligible for historical designation and there is no evidence that the structure has historic value.

B. COMMUNITY CHARACTER/VISUAL QUALITY

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

C. PUBLIC ACCESS/PARKING

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. COASTAL HAZARDS

The development is located in an area that may be subject to coastal hazards. As conditioned, the risks of property damage or loss arising from such hazards will be borne by the applicant and not the public. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30253 of the Coastal Act.

E. LOCAL COASTAL PLANNING

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of San Diego determined that no CEQA review was required for the proposed project since it does not require a discretionary permit, but only a ministerial construction permit. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.